

AN ORDINANCE

99443

AUTHORIZING THE EXECUTION OF AN AMENDMENT TO STANDARD CONCESSION AGREEMENTS WITH FRESQUEZ CONCESSIONS TEXAS, HMSHOST, DUTY FREE SAN ANTONIO AND NEWS AND GIFT SHOPS INTERNATIONAL (DFSA-NGSI SAN ANTONIO PARTNERSHIP), J.R. MANAGEMENT AND PORTER & BRITTON GP, L.L.C. AS SUCCESSOR IN INTEREST TO GERARDO SANCHEZ FOR LOCATIONS IN TERMINAL TWO, SAN ANTONIO INTERNATIONAL AIRPORT TO PROVIDE FOR AN ADJUSTMENT IN THE MINIMUM ANNUAL GUARANTEES CONTAINED IN THE SAN ANTONIO INTRNATIONAL AIRPORT STANDARD CONCESSION AGREEMENT.

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WHEREAS, Ordinance 95351, passed and approved by City Council on February 22, 2002, awarded concession contracts in Terminal 2 of San Antonio International Airport to Fresquez Concessions Texas for Spaces 242 and 248; HMSHost for Space 244; Duty Free San Antonio and News and Gift Shops International (DFSA-NGSI San Antonio Partnership) for Spaces 260 and 262; and, J.R. Management for Space 250; and

WHEREAS, Ordinance 94214, passed and approved by City Council on June 28, 2001, awarded a concession contract in Terminal Two of San Antonio International Airport to Gerardo Sanchez which was subsequently assigned to Porter & Britton GP, L.L.C. for Space 206; and

WHEREAS, there has been a decline in passenger enplanements since September 11, 2001 that has affected these concession locations; and

WHEREAS, the sales history of each concession location demonstrates a reduction in sales, which can partially be attributed to the overall decline of passenger enplanements since September 11, 2001 and the war with Iraq; and

WHEREAS, the pending rental relief amendments allow the tenants to moderate their cost and reinvest in their concession locations to increase sales while at the same time providing for a termination of the adjustment in rent, if certain sales or enplanement benchmarks are achieved; and

WHEREAS, it is now necessary to execute these Amendments to the San Antonio International Airport Standard Concession Agreements; **NOW THEREFORE:**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. An Amendment to the Standard Concession Agreement with Duty Free San Antonio/News and Gifts Shops International for Space 260 is hereby authorized to provide for a twenty percent (20%) decrease in the contractual rental amount, reducing the monthly rental

from \$4,500.00 per month to \$3,600.00 per month. An Amendment to the Standard Concession Agreement with Duty Free San Antonio/News and Gifts Shops International for Space 262 is hereby authorized to provide for a thirty percent (30%) decrease in the contractual rental amount, reducing the monthly rental from \$6,333.33 per month to \$4,333.33 per month.

SECTION 2. An Amendment of the Standard Concession Agreement with Fresquez Concessions Texas for Space 242 is hereby authorized to provide for a seventy-five percent (75%) decrease in the contractual rental amount, reducing the monthly rental from \$4,583.33 per month to \$1,145.83 per month. An Amendment of the Standard Concession Agreement with Fresquez Concessions Texas for Space 248 is hereby authorized to provide for a 20% decrease in the contractual rental amount, reducing the monthly rental from \$6,350.00 per month to \$5,080.00 per month.

SECTION 3. An Amendment of the Standard Concession Agreement with J.R. Management for Space 250 is hereby authorized to provide for a thirty percent (30%) decrease in the contractual rental amount, reducing the monthly rental from \$3,333.33 per month to \$2,333.33 per month. The thirty percent (30%) reduction will apply to all future rental increases as provided in the Concession Agreement. Additionally, the Amendment will modify the existing definition of a lease year to allow for the commencement of all subsequent lease years and rental increases to be based on the anniversary of the commencement date of the agreement.

SECTION 4. An Amendment of the Standard Concession Agreement with HMS Host for Space 244 is hereby authorized to provide for a fifty percent (50%) decrease in the contractual rental amount, reducing the monthly rental from \$4,800.00 per month to \$2,400.00 per month.

SECTION 5. An Amendment of the Standard Concession Agreement with Porter & Britton GP, L.L.C. for Space 206 is hereby authorized to provide for a twenty-five percent (25%) decrease in the contractual rental amount, reducing the monthly rental from \$5,133.33 per month to \$3,850.00 per month.

SECTION 6. The rental relief amendments provide for a termination of the adjustment in rents, if: (A) Concessionaire achieves a sales level equal to ninety percent (90%) of either the Concessionaires sales projections as provided in the Request for Proposal Response for the location or ninety percent (90%) of San Antonio International Airport's sales projections, whichever is less and tenant sustains the elevated sales level for a period of three (3) consecutive months; or (B) enplanements in Terminal 2 achieve a monthly traffic count equal to or greater than the corresponding monthly traffic counts of year 2000, and the elevated enplanements continue for a period of three (3) consecutive months. At such time that either of the aforementioned benchmarks are achieved, all rental relief will be discontinued and all rents will return to the contractual amounts as promulgated in the Concession Agreements.

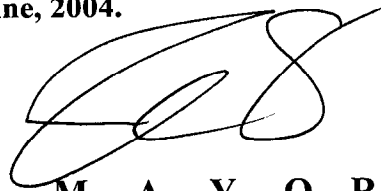
SECTION 7. The proceeds of these agreements shall be deposited into Fund 51-001 entitled "Airports Funds," Index Codes 070011, 070276, 070318, 070052, 070169, 070102 & 070151 entitled, "DFSA/NGSI-Alamo Books," "DFSA/NGSI-Gifts & News (260)," "Fresquez-Baskin Robbins," "Fresquez-Quizno's," "J.R. Mgt-Taste of Orient," "Host-Legend's Bar" and "Host-

Starbucks" respectively.

SECTION 8. The City Manager or her designee is authorized to execute the Amendments to the San Antonio International Airport Standard Concession Agreements as referenced above, copies of which are attached hereto and incorporated by reference herein for all purposes.

SECTION 9. This Ordinance shall be effective on and after the tenth (10th) day after passage hereof.

PASSED AND APPROVED THIS 24th DAY OF June, 2004.



M A Y O R

for **EDWARD D. GARZA**

ATTEST: *Leticia M. Vaca*
City Clerk

APPROVED AS TO FORM: *M. Zetzsche*
for City Attorney